

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1451

IN THE MATTER OF:

Application of WEBB TOURS, INC.,	)	Served August 18, 1975
for Temporary Authority to Perform	)	
Special Operations	)	Application No. 869

By joint petition filed July 29, 1975, Blue Lines, Inc., and The Gray Line, Inc., seek reconsideration of Order No. 1443, served July 21, 1975, and denial of Application No. 869 by Webb Tours, Inc. Both Blue Lines and Gray Line hold extensive sightseeing authority from this Commission.

Blue Lines and Gray Line specify three errors claimed as grounds for reconsideration. First, the Commission erred in finding an immediate and urgent need for the proposed sightseeing service. Second, the Commission erred in finding that the applicant proposed a service for a territory having no carrier service capable of meeting existing needs. Third, the Commission erred in approving temporary authority without taking into consideration the existing sightseeing services now provided by Blue Lines and Gray Line within the involved territory.

Blue Lines and Gray Line contend that Order No. 1443 rewrites the Compact, Title II, Article XII, Section 4(d)(3), to define "immediate and urgent need" as being "an immediate economic need to proceed with the program as a result of a significant investment of funds, time and effort". They also contend that the Commission's failure to notify them through an ex parte communication has created a situation in which Blue Lines and Gray Line now must seek reconsideration of Order No. 1443 rather than present evidence in opposition to the application in a proceeding. Blue Lines and Gray Line submit that the evidence they would have presented would have conclusively demonstrated that there is no immediate need for this service.

Admittedly, Webb Tours operates in the same area in which Blue Lines and Gray Line operate. However, in the judgment of the Commission the overall character of the service provided by Webb Tours in a London double-decker bus (a one-bus operation) with drivers and hostesses uniformed in special Revolutionary-period costumes was so unique as to be a service substantially different from that provided by existing certificated carriers and which they were not immediately capable of providing. Hence, the Commission concluded, within the discretion permitted by Section 4(d)(3)

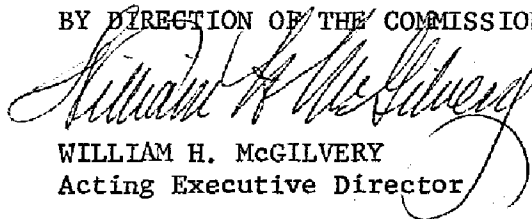
of the Compact, that there was an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need.

The Blue Lines and Gray Line claim that the Commission did not consider existing service is apparently based upon the fact that the Commission did not provide them notice of the application for temporary authority. The petition sets forth no provision in the Compact that such notice be provided. The Commission is not required to provide such notice. In fact, the Compact expressly provides in Title II, Article XII, Section 4(d)(3) that the matter is fully within the Commission's "discretion". The essential purpose of that provision in the Compact is to permit the granting of temporary authority without hearings or other proceedings. Thus, the Commission's action was fully consistent with the Compact requirements and in no way indicates that existing carriers were not considered.

The petition for reconsideration also sets forth statements of a spurious nature. These statements and the other matters presented in the petition for reconsideration have been considered but they do not warrant action contrary to that which is now directed.

THEREFORE, IT IS ORDERED that the petition for reconsideration of Order No. 1443, served July 21, 1975, filed by Blue Lines, Inc., and The Gray Line, Inc., be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY  
Acting Executive Director